

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-
LEVEL PAP, AND MECHANICAL
VENTILATOR PRODUCTS LIABILITY
LITIGATION

Master Docket: No. 21-mc-1230-JFC

MDL No. 3014

This Document Relates To:

(Oral Argument Requested)

Consolidated Second Amended Class
Action Complaint for Economic Losses
(ECF No. 637)

**PHILIPS RS NORTH AMERICA LLC, KONINKLIJKE PHILIPS N.V., PHILIPS
NORTH AMERICA LLC, PHILIPS HOLDING USA, INC., AND PHILIPS RS NORTH
AMERICA HOLDING CORPORATION’S MOTION TO DISMISS THE
CONSOLIDATED SECOND AMENDED CLASS ACTION COMPLAINT
UNDER RULE 12(b)(1) FOR LACK OF STANDING**

Defendants Philips RS North America LLC, Koninklijke Philips N.V., Philips North America LLC, Philips Holding USA, Inc., and Philips RS North America Holding Corporation, through undersigned counsel, respectfully move to dismiss Plaintiffs’ Consolidated Second Amended Class Action Complaint for Economic Losses (ECF No. 637) (“SAC”) pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. As set forth more fully in the accompanying Memorandum of Law, Defendants move to dismiss the SAC, in its entirety, on the following grounds:

- i. Dismissal of Plaintiffs’ **Counts I through LXX** under Rule 12(b)(1) for lack of Article III standing. *See* Mem. Section I–II.
- ii. Dismissal of Plaintiffs’ **Counts III, IV, V, VII, and VIII**, to the extent they are based on the laws of the District of Columbia, Nebraska, South Dakota, Utah, or Wyoming, with prejudice for lack of Article III standing under Rule 12(b)(1) because Plaintiffs admit that there is no named Plaintiff for those jurisdictions (SAC ¶ 309). *See* Mem. Section III.

- iii. Dismissal of Plaintiffs' **Counts XX, XLV, XLVI, LX, LXIII, LXIV, and LXX** with prejudice for lack of Article III standing under Rule 12(b)(1) because there is no named Plaintiff for the jurisdictions subject of those Counts. *See* Mem. Section III.
- iv. Dismissal of Plaintiffs' **Counts I through LXX** under Rule 12(b)(1) with prejudice for lack of Article III standing as to device models that were not purchased by any of the named Plaintiffs. *See* Mem. Section IV.

WHEREFORE, Defendants seek dismissal of all Counts on the separate and independent grounds set out above, and other and further relief as the Court deems just and proper.

Dated: August 29, 2022

Respectfully submitted,

/s/ John P. Lavelle, Jr

John P. Lavelle, Jr. (PA54279)

john.lavelle@morganlewis.com

Lisa C. Dykstra (PA67271)

lisa.dykstra@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP

1701 Market Street

Philadelphia, PA 19103-2921

Tel: 215.963.5000

Wendy West Feinstein (PA86698)

wendy.feinstein@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP

One Oxford Center, 32nd Floor

Pittsburgh, PA 15219-6401

Tel: 412.560.3300

*Counsel for Defendant Philips RS North America
LLC*

/s/ Michael H. Steinberg

Michael H. Steinberg (CA143179)

steinbergm@sullcrom.com

SULLIVAN & CROMWELL LLP

1888 Century Park East

Los Angeles, CA 90067

Tel: 310.712.6670

Tracy Richelle High

hight@sullcrom.com

William B. Monahan (NY4229027)

monahanw@sullcrom.com

SULLIVAN & CROMWELL LLP

125 Broad Street

New York, NY 10004

Tel: 212.558.4000

*Counsel for Defendants Koninklijke Philips N.V.,
Philips North America LLC, Philips Holding
USA, Inc., and Philips RS North America
Holding Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2022, the foregoing document was electronically filed with the Clerk of the Court and served upon counsel of record through the Court's ECF filing system.

/s/ John P. Lavelle, Jr.

John P. Lavelle Jr. (PA54279)
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
Tel: 215.963.5000